

DOCUMENT A00870

**United States Department of the Interior  
FISH AND WILDLIFE SERVICE**

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## United States Department of the Interior

FISH AND WILDLIFE SERVICE  
New England Ecological Services Field Office  
70 Commercial Street, Suite 300  
Concord, NH 03301-5094  
Phone: (603) 223-2541 Fax: (603) 223-0104



In Reply Refer To:

July 22, 2022

Project Code: 2022-0066516

Project Name: 612663 - BOSTON- BRIDGE PRESERVATION, B-16-053 (4T3), BROOKLINE AVENUE OVER I-90 & RAILROAD

Subject: List of threatened and endangered species that may occur in your proposed project location or may be affected by your proposed project

To Whom It May Concern:

*Please review this letter each time you request an Official Species List, we will continue to update it with additional information and links to websites may change.*

### **About Official Species Lists**

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Federal and non-Federal project proponents have responsibilities under the Act to consider effects on listed species.

The enclosed species list identifies threatened, endangered, proposed, and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested by returning to an existing project's page in IPaC.

### **Endangered Species Act Project Review**

Please visit the “**New England Field Office Endangered Species Project Review and**

**Consultation**” website for step-by-step instructions on how to consider effects on listed species and prepare and submit a project review package if necessary:

<https://www.fws.gov/office/new-england-ecological-services/endangered-species-project-review>

**\*NOTE\*** Please do not use the **Consultation Package Builder** tool in IPaC except in specific situations following coordination with our office. Please follow the project review guidance on our website instead and reference your **Project Code** in all correspondence.

**Northern Long-eared Bat Update** - Additionally, please note that on March 23, 2022, the Service published a proposal to reclassify the northern long-eared bat (NLEB) as endangered under the Endangered Species Act. The U.S. District Court for the District of Columbia has ordered the Service to complete a new final listing determination for the NLEB by November 2022 (Case 1:15-cv-00477, March 1, 2021). The bat, currently listed as threatened, faces extinction due to the range-wide impacts of white-nose syndrome (WNS), a deadly fungal disease affecting cave-dwelling bats across the continent. The proposed reclassification, if finalized, would remove the current 4(d) rule for the NLEB, as these rules may be applied only to threatened species. Depending on the type of effects a project has on NLEB, the change in the species’ status may trigger the need to re-initiate consultation for any actions that are not completed and for which the Federal action agency retains discretion once the new listing determination becomes effective (anticipated to occur by December 30, 2022). If your project may result in incidental take of NLEB after the new listing goes into effect this will first need to be addressed in an updated consultation that includes an Incidental Take Statement. If your project may require re-initiation of consultation, please contact our office for additional guidance.

#### *Additional Info About Section 7 of the Act*

Under section 7(a)(2) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to determine whether projects may affect threatened and endangered species and/or designated critical habitat. If a Federal agency, or its non-Federal representative, determines that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Federal agency also may need to consider proposed species and proposed critical habitat in the consultation. 50 CFR 402.14(c)(1) specifies the information required for consultation under the Act regardless of the format of the evaluation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<https://www.fws.gov/service/section-7-consultations>

In addition to consultation requirements under Section 7(a)(2) of the ESA, please note that under sections 7(a)(1) of the Act and its implementing regulations (50 CFR 402 et seq.), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species. Please contact NEFO if you would like more information.

**Candidate species** that appear on the enclosed species list have no current protections under the ESA. The species' occurrence on an official species list does not convey a requirement to consider impacts to this species as you would a proposed, threatened, or endangered species. The ESA does not provide for interagency consultations on candidate species under section 7, however, the Service recommends that all project proponents incorporate measures into projects to benefit candidate species and their habitats wherever possible.

### **Migratory Birds**

In addition to responsibilities to protect threatened and endangered species under the Endangered Species Act (ESA), there are additional responsibilities under the Migratory Bird Treaty Act (MBTA) and the Bald and Golden Eagle Protection Act (BGEPA) to protect native birds from project-related impacts. Any activity, intentional or unintentional, resulting in take of migratory birds, including eagles, is prohibited unless otherwise permitted by the U.S. Fish and Wildlife Service (50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)). For more information regarding these Acts see:

<https://www.fws.gov/program/migratory-bird-permit>

<https://www.fws.gov/library/collections/bald-and-golden-eagle-management>

Please feel free to contact us at **newengland@fws.gov** with your **Project Code** in the subject line if you need more information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat.

Attachment(s): Official Species List

Attachment(s):

- Official Species List

## Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**New England Ecological Services Field Office**

70 Commercial Street, Suite 300

Concord, NH 03301-5094

(603) 223-2541

## Project Summary

Project Code: 2022-0066516

Event Code: None

Project Name: 612663 - BOSTON- BRIDGE PRESERVATION, B-16-053 (4T3),  
BROOKLINE AVENUE OVER I-90 & RAILROAD

Project Type: Bridge - Maintenance

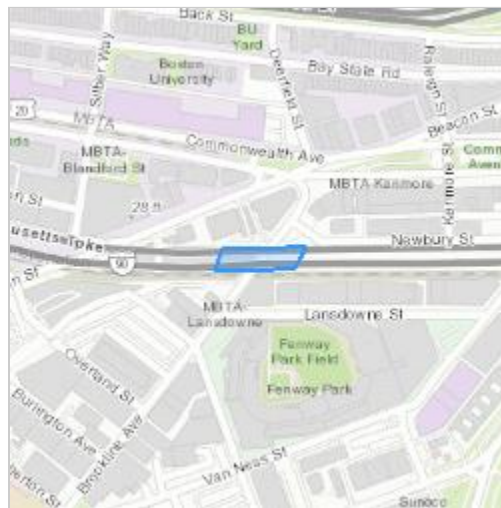
Project Description: 612663 - BOSTON- BRIDGE PRESERVATION, B-16-053 (4T3),  
BROOKLINE AVENUE OVER I-90 & RAILROAD

MassDOT proposes bridge preservation (cleaning and painting) on B-16-053, which carries Brookline Avenue over I-90 and the MBTA railroad in Boston.

Monarch Butterfly: Candidate Species only, no conservation measures at this time.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/@42.34782335,-71.09794115669476,14z>



Counties: Suffolk County, Massachusetts

## Endangered Species Act Species

There is a total of 1 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

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1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Insects

NAME	STATUS
Monarch Butterfly <i>Danaus plexippus</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9743">https://ecos.fws.gov/ecp/species/9743</a>	Candidate

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



## **IPaC User Contact Information**

Agency: Massachusetts Department of Transportation

Name: Hana Isihara

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City: Boston

State: MA

Zip: 02116

Email: hana.l.isihara@dot.state.ma.us

Phone: 6178964454

## **Lead Agency Contact Information**

Lead Agency: Federal Highway Administration

Federal Highway Administration (FHWA), Federal Railroad  
Administration (FRA), and Federal Transit Administration (FTA)

Range-wide Programmatic Consultation for  
Indiana Bat and Northern Long-eared Bat

**Project Submittal Form**

*Updated June 2019*

The use of the Assisted Determination Key in the U.S. Fish and Wildlife Service (Service) Information for Planning and Conservation (IPaC) System is strongly recommended for submitting project-level information to the Service for use of the range-wide programmatic consultation covering actions that may affect the Indiana bat and/or northern long-eared bat (NLEB). However, if not using the key, transportation agencies must provide this submittal form (or a comparable Service approved form) with project-level information to the Service. The completed form should be submitted to the appropriate Service Field Office prior to project commencement. For more information, see the Standard Operating Procedure for Site Specific Project(s) Submission in the User's Guide (Section 3).

By submitting this form, the transportation agency ensures that each component of the proposed project(s) adheres to the criteria and conditions of the range-wide programmatic consultation, as outlined in the biological assessment (BA) and biological opinion (BO). Upon submittal of this form, the appropriate Service Field Office may review the project-specific information provided and request additional information. For projects that may affect, but are not likely to adversely affect (NLAA) the Indiana bat and/or NLEB, if the applying transportation agency is not contacted by the Service with any questions or concerns within 14 calendar days of form submittal, it may proceed under the range-wide programmatic consultation and assume concurrence of the NLAA determination made by the Service in the BO. For projects that may affect, and are likely to adversely affect (LAA) the Indiana bat and/or the NLEB, the appropriate Service Field Office will respond<sup>1</sup> within 30 calendar days of receiving a complete project-level submission, which includes, but may not be limited to this completed form.

Further instructions on completing the submittal form can be found by hovering your cursor over each text box.

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1. Date:

2. Lead agency:

*This refers to the **Federal governmental** lead action agency initiating consultation; select **FHWA, FRA or FTA** as appropriate.*

3. Requesting agency:

*This refers to the transportation agency completing the form (it may or may not be the same as the Lead Agency).*

- Name:

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<sup>1</sup> Service Field Offices should use the response letter template for projects that may affect, and are likely to adversely affect the Indiana bat and/or NLEB.

- Title:
- Phone:
- Email:

4. Consultation code:<sup>2</sup>

5. Project name(s):

6. Project description:

*Please attach additional documentation or explanatory text if necessary.*

7. Project location (county, state):

*If not delineated in IPaC, attach shape files.*

8. For species other than Indiana bat and NLEB (from IPaC official species list):

**N/A**

No effect – project(s) are inside the range, but no suitable habitat (see additional information attached).

May affect – see additional information provided for those species (see attached or forthcoming).

**Monarch butterfly - candidate only**

**Please confirm and identify how each component of the proposed project(s) adheres to the criteria of the BO by completing the following (see User Guide Section 2.0):**

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<sup>2</sup> Available through IPaC System Official Species List: <https://ecos.fws.gov/ipac/>

## NO EFFECT

9. For Indiana bat/NLEB, if applicable, select your no effect determination:

No effect – project(s) are outside the species' range.

No effect – project(s) are inside the species range with no suitable summer habitat within the project action area; project(s) must also be greater than 0.5 miles from any hibernaculum unless meeting exceptions listed below.

No effect – project(s) do not involve any construction activities<sup>3</sup> (e.g., bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales).

No effect – project(s) do not cause any stressors to the bat species, including as described in the BA/BO (i.e., do not involve habitat removal, tree removal/trimming, bridge or structure activities, temporary or permanent lighting, or use of percussives (e.g., lining roadways, unlighted signage, rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.)).

No effect - project(s) within 0.5 mile of hibernacula that are limited to the maintenance of the surrounding landscape at existing facilities (e.g., rest areas, stormwater detention basins) located outside suitable summer habitat – no new ground disturbance.<sup>4</sup>

No effect – project(s) are within 300 feet from the existing road/rail surface surface (must also be greater than 0.5 miles of a hibernacula) that include percussives or other activities that increase noise above existing traffic/background levels:

- within areas that contain suitable habitat (**documented or undocumented**),
- conducted during the **inactive season**, and
- does not involve tree removal/trimming or bridge/structure work.

No effect – project(s) includes removal, replacement, or maintenance of bridge(s) and/or structure(s) without any signs of bats (bridge/structure assessment documents no sign of bat use (bats, guano, etc.)) and does not impact suitable summer habitat within the project action area.

*Proceed with this form to identify how other components of the proposed project adhere to the criteria of the BO.*

<sup>3</sup> Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

<sup>4</sup> Ground disturbance is defined as any activity that compacts or disturbs the ground. Ground disturbance can be caused by the use of hand tools (shovels, pick axe, posthole digger, etc.), heavy equipment (excavators, backhoes, bulldozers, trenching and earthmoving equipment, etc.), and heavy trucks (large four wheel drive trucks, dump trucks and tractor trailers, etc.). Note that ground disturbance can be a component of other actions (e.g., bulldozing trees). Contact the local Service Field Office, as needed, to assist in determining if and how ground disturbance may affect bat hibernacula.

MAY AFFECT, NOT LIKELY TO ADVERSELY EFFECT – W/O AMMS

10. For Indiana bat/NLEB, if applicable, select your may affect, NLAA determination (without implementation of AMMs):

NLAA – project(s) are inside the species range and within suitable bat habitat, but **negative** bat presence/absence (P/A) surveys; must also be greater than 0.5 miles from any hibernaculum.

NLAA – project(s) are within 300 feet of the existing road/rail surface (must also be greater than 0.5 miles of a hibernacula) that include percussives or other activities that increase noise above existing traffic/background levels:

- within areas that contain **undocumented** habitat
- conducted during the **active season**
- does not involve tree removal/trimming or bridge/structure work.

NLAA – project(s) are limited to slash pile burning (must also be greater than 0.5 miles from any hibernaculum).

NLAA – project(s) are limited to wetland or stream protection activities associated with compensatory wetland/stream mitigation that do not clear suitable habitat (must also be greater than 0.5 miles from any hibernaculum).

NLAA – project(s) within 0.5 mile of hibernacula that are limited to the maintenance of the surrounding landscape at existing facilities (e.g., rest areas, stormwater detention basins) located within suitable summer habitat – no new ground disturbance or tree removal/trimming.

*Proceed with this form to identify how other components of the proposed project adhere to the criteria of the BO.*

MAY EFFECT, NOT LIKELY TO ADVERSELY AFFECT – WITH AMMs

11. For Indiana bat/NLEB, if applicable, document your may affect, NLAA determination (**with implementation of AMMs**) by completing the following section; use #13 to document AMMs).

Affected Resource/Habitat Type:

- a. Trees

Verify that the project is within 100 feet of existing road/rail surfaces.

Verify that all tree removal/trimming occurs greater than 0.5 mile from any hibernaculum.

Verify that all trees to be removed/trimmed are clearly demarcated.

Verify that no documented Indiana bat and/or NLEB roosts and/or surrounding summer habitat within 0.25 mile of documented roosts will be impacted.

Verify that all tree removal/trimming will occur outside the active season (i.e., will occur in winter):<sup>5</sup>

**Or**

Verify that tree removal/trimming will include 10 or fewer trees<sup>6</sup> per project during the active season, and visual emergence survey<sup>7</sup> observed no bats. Acres of trees 0-100 feet of existing road/rail surface proposed for removal/trimming:

Verify that all applicable lighting minimization measures will be implemented.

**b. Bridge/Structure Work**

Projects Proposed work:

Timing of work:

Signs of bat activity on/in bridge/structure? Yes:                      No:

Verify that work will be conducted outside the active season, or if during the active season, verify that no roosting bats will be harmed or disturbed in any way:<sup>8</sup>

Verify that work will maintain suitable roosting habitat.<sup>9</sup>

Verify that all applicable lighting minimization measures will be implemented.

*Proceed with this form to identify how other components of the proposed project adhere to the criteria of the BO.*

**MAY AFFECT, LIKELY TO ADVERSELY AFFECT**

12. For Indiana bat/NLEB, if applicable, document your may affect, LAA determination by completing the following section (use #13 to document AMMs).

<sup>5</sup> Coordinate with the local Service Field Office for appropriate dates.

<sup>6</sup> Areas containing more than 10 trees will be assessed by the local Service Field Office on a case-by-case basis with the project proponent.

<sup>7</sup> Refer to <http://www.fws.gov/midwest/endangered/mammals/inba/inbasummersurveyguidance.html>

<sup>8</sup> See page 12 of the User Guide for a description of activities that are NLAA roosting bats during the active season.

<sup>9</sup> This only applies when assessment documents signs of bat use of when bat use is assumed.

Affected Resource/Habitat Type:

a. Trees

Project Location:

0-100 feet from edge of existing road/rail surface

100-300 feet from edge of existing road/rail surface

Verify that all tree removal/trimming occurs greater than 0.5 mile from any hibernaculum

Timing of tree removal/trimming:

Verify that no documented Indiana bat roosts or surrounding summer habitat within 0.25 mile of documented roosts will be impacted between May 1 and July 31.

Verify that no documented NLEB roosts or surrounding summer habitat within 150 feet of documented roosts will be impacted between June 1 and July 31.

Acres of trees 0-100 feet of existing road/rail surface proposed for removal/trimming:

Acres of trees 100-300 feet of existing road/rail surface proposed for removal/trimming:

Verify that all applicable lighting minimization measures will be implemented.

b. Bridge/Structure Work Projects

Proposed work:

Timing of work:

Verify no signs of a maternity colony.

Verify that work will maintain suitable roosting habitat.<sup>10</sup>

Verify that all applicable lighting minimization measures will be implemented.

13. For Indiana bat/NLEB, if applicable to the action type, the following AMMs will be implemented<sup>11</sup> unless P/A surveys and/or bridge/structure assessments document that

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<sup>10</sup> This only applies when assessment documents signs of bat use or when bat use is assumed.

<sup>11</sup> See AMMs Fact Sheet (Appendix C) for more information on AMMs.

the species are not likely to be present:

General AMM 1 (required for all projects)

Tree Removal AMM 1

Tree Removal AMM 2 (required for NLAA)

Tree Removal AMM 3 (required for all projects)

Tree Removal AMM 4 (required for NLAA)

Tree Removal AMM 5 (required for LAA)

Tree Removal AMM 6 (required for LAA)

Tree Removal AMM 7 (required for LAA)

Bridge AMM 1

Bridge AMM 2 (required for NLAA during active season)

Bridge AMM 3 (required for NLAA during active season)

Bridge AMM 4 (required for all projects)

Structure AMM 1 (required for all projects for Indiana bat and required for NLAA for NLEB)

Structure AMM 2 (required for NLAA for both bat species) or

Structure AMM 3 (required for NLAA for both bat species)

Structure AMM 4 (required for all projects for Indiana bat and required for NLAA for NLEB)

Lighting AMM 1 (required for all projects during the active season)

Lighting AMM 2 (required for all projects)

Hibernacula AMM 1 (required for all projects)

14. For Indiana bat, if applicable, compensatory mitigation measures will also be required to offset adverse effects on the species (see Section 2.10 of the BA). Please verify the mechanism in which compensatory mitigation will be implemented and that sufficient information is provided to the Service.

Range-wide In-Lieu Fee Program, The Conservation Fund

State, Regional, Recovery Unit-Specific In-Lieu Fee  
Program Name:

Conservation Bank

Name:

Location:

Local Conservation Site(s)

Name:

Location:

Description: